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SUBJECT: IHEC DE-CERTIFIES 500 CANDIDATES, INCLUDING MUTLAQ
AND MINISTER OF DEFENSE

Classified By: Ambassador Christopher R. Hill, for reasons 1.4 b and d.

¶1. (C) Summary: IHEC made a sudden decision late in the night of January 14, de-certifying some 500 candidates, including prominent Sunni politician Salah al-Mutlaq and Minister of Defense Abd al-Qadir al-Mufriji. (NOTE: Regarding the number, IHEC admitted to UNAMI that they needed to clean up the list as it contained duplications and mistaken identities. END NOTE.) According to IHEC and UNAMI contacts, IHEC took the precipitous action within hours of receiving two letters signed by Ahmed Chalabi, acting on behalf of the Accountability and Justice Commission (AJC). De-certified candidates have two options: appeal the AJC's determination to a specially chartered judicial panel, a potentially extended process that could stretch out beyond the elections, or appeal IHEC's decision to the Electoral Judicial Panel (EJP), a special group of three judges formed by the Iraqi Court of Cassation, process that takes up to 16 days. Initial political reaction has been mixed. Key Sunnis are telling us the general consensus among them is that they should not/not call for a boycott, but others are warning that this would disenfranchise Sunnis. One contact who had listened to the Friday sermons said there was much more outrage in Sunni mosques about the disqualification of the Defense Minister than about Mutlaq's case. UNAMI head Ad Melkert told the Ambassador he will meet with IHEC Board tomorrow to review the situation. He does not/not want a statement of concern issued by UNAMI at this time because the situation is in great flux, particularly regarding procedural elements, which could provide some opportunities for intervention. A statement could increase tensions and freeze the situation in place. END SUMMARY.

¶2. (C) IHEC made a sudden decision late in the night of January 14, de-certifying some 500 candidates, including prominent Sunni politician Salah al-Mutlaq. IHEC took the decision within hours of receiving two letters signed by Ahmed Chalabi, acting on behalf of the Accountability and Justice Commission (AJC). (NOTE: Chalabi was the head of the previous de-Ba'athification Commission. He and his deputy, Ali Faisal al-Lami, are in effect running the AJC until the COR approves its new members.) While their statutory authority to take such action remains in question, a special three-member Council of Representatives committee (drawn from the COR oversight committee for de-Ba'athification matters) has blessed their actions. According to IHEC commissioner Qasim al-Aboudi (ISCI), the Chalabi letter mentioned these COR members and noted that they endorsed his letter and the list it contained. (NOTE: IHEC has not yet taken action on the second Chalabi letter, which calls for 11 political entities (parties) to be de-certified. The majority of those parties are Sunni. END NOTE.)

¶3. (C) Judge Qasim told Dep Pol/C that IHEC took the precipitous action in order to give de-certified candidates enough time to appeal the decision, while IHEC maintains its electoral calendar. That calendar calls for all candidate certification to be completed by January 31, when candidate

lists -- which voters will use in tandem with the ballot -- must be printed. Qasim and UNAMI's Electoral Assistance Team head Sandra Mitchell separately reported that there were "some mistakes" on the list and some duplication of names, so the AJC has committed to getting IHEC a revised list on January 16. Qasim confirmed that Mutlaq and DefMin Abd al-Qadir were the two most prominent names on the list. Qal-Qadir were the two most prominent names on the list.

¶4. (C) De-certified candidates have two options for appeals. They can

-- appeal the AJC's determination to a specially chartered judicial panel, a process that could stretch out even beyond the elections if the panel took the maximum time provided (up to 90 days, according to the 2008 de-Ba'athification law); the COR only constituted this panel in the past week; or

-- appeal IHEC's decision to the Electoral Judicial Panel (EJP), a special group of three judges formed by the Iraqi Court of Cassation, process that takes up to 16 days (3 days public notice, 3 days to notify IHEC of desire to appeal, and 10 days to for the EJP to decide on the appeal).

¶5. (C) According to IHEC Commissioner Qasim, IHEC will issue its formal decision January 16 and publish it for three days in major Iraqi newspapers, in accordance with the organization's laws and procedures. UNAMI reports that the precise list of names is still in flux to a degree, with AJC personnel contacting some IHEC commissioners January 15 to inform them of duplications and mistaken identities on the list.

¶6. UNAMI's Mitchell, who sat in on the IHEC meeting, described the atmosphere as mixed. Da'wa and ISCI affiliated commissioners were excited and almost amused by the proceedings, according to Mitchell. Other Board members seemed resigned and essentially threw up their hands, saying "nothing we can do." IHEC Chairman Faraj al-Hadairy (a Kurd) was upset, recognizing the seriousness of the decision and his inability to stop it. (He was outvoted.) UNAMI at present only has 219 of the 500 names. Mitchell is contacting IHEC commissioners this afternoon to get a copy of the rest of the names.

¶7. (C) Judge Qasim, affiliated with ISCI, heatedly defended the decision, telling Dep Pol/C that IHEC had no choice but to follow the law. It had no authority to question the AJC's de-Ba'athification findings. He also rejected questions about the AJC's possible lack of statutory authority, saying this was not within IHEC's discretion to consider but was instead a matter for the judges to take up in the appeals procedures.

¶8. (C) Reaction to the IHEC decision has been mixed so far. Qasim Daoud, Islamic National Alliance/Solidarity bloc leader, told poloff his INA coalition has had no official reaction yet. He thought that most of the names on the list were insignificant and that there would be no significant political reaction to the decision. (He seems not to have known about MinDef Abd al-Qadir's inclusion.) Daoud speculated that the Kurds had pressed to have him included because of his recent dispute with President Talabani and his unwillingness to muzzle his pro-Ba'ath rhetoric.

¶9. (C) Krikor Derghopian, political aide to VP Tariq al-Hashemi (a Sunni), told Pol/C that no one is talking about any boycott. He said he was optimistic that the situation would be smoothed over and kept under control by judicious use of political consensus. Others were less optimistic. MP Dhafer al-Ani insisted that Sunnis would reject this action. He termed it bad for the political process and for stability. We have heard mixed reports about whether he is on the list. He expressed concern that his name might be added to the list. Jaber al-Jaber, an aide to DPM Issawi, said he was shocked by the action, particularly by the inclusion of Defense Minister Abdul Qadir al-Mufriji, whom he described as

someone imprisoned by Saddam. Another contact who had listened to the Friday sermons said there was much more outrage about the disqualification of the Defense Minister than about Mutlaq's case.

¶10. (C) Mohammed al-Tamimi, a Sunni from Kirkuk who believes he was included on the list, believed that the decision was "purely political" and was designed to punish him for his hard line on Kirkuk and for holding out on the election law in the fall. He stressed that he was not employed by any government entity during the Saddam era and was not a member of the Ba'ath Party. He said he would appeal the decision, adding that Sunnis had not made a decision yet about whether to boycott the election.

HILL